

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JUDITH and FERNANDO
VELAZQUEZ**

Plaintiffs

v.

**STATE FARM FIRE AND
CASUALTY COMPANY**

Defendant

CIVIL ACTION

NO. 19-3128

ORDER

AND NOW, this 22nd day of April 2020, upon consideration of the *Report and Recommendation* issued by the Honorable Lynne A. Sitarski, United States Magistrate Judge (the “Magistrate Judge”), [ECF 26], to which no objections were filed, and after a careful review of the parties’ briefs and exhibits, it is hereby **ORDERED** that the *Report and Recommendation* is **APPROVED** and **ADOPTED**.¹ Accordingly, Defendant’s *motion to dismiss the amended complaint*, [ECF 19], is **GRANTED**, as follows:

1. Counts I, III, IV, V, VII, IX, X, and XI, are **DISMISSED**, without prejudice. Plaintiffs may file a second amended complaint to support the claims asserted at these counts.
2. Counts II, VI, VIII, and XII, are **DISMISSED**, with prejudice.

Should Plaintiffs wish to file a second amended complaint, they must do so by no later than May 12, 2020.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro

NITZA I. QUIÑONES ALEJANDRO

Judge, United States District Court

¹ Defendant’s motion to dismiss the amended complaint was referred to the Magistrate Judge for a Report and Recommendation (the “R&R”), which was submitted on March 27, 2020. [ECF 26]. As noted, no objections were filed to the R&R. Thus, after carefully reviewing the parties’ briefs and exhibits, and giving “reasoned consideration to the magistrate’s report before adopting it as the decision of the court,” *Long v. Astrue*, 2010 WL 3155250, at *2 (E.D. Pa. Aug. 2, 2010) (quoting *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987)), the thoroughly well-reasoned R&R is approved and adopted. This Court concurs with the R&R’s findings that Plaintiffs have failed to allege sufficient facts to state a claim, but that amended allegations would not necessarily be futile, except as to Plaintiffs’ claims under the Unfair Insurance Practices Act, 40 Pa. Stat. §§ 1171.1 *et seq.* (Counts II and VIII), and the Unfair Claims Settlement Practices regulations, 31 Pa. Code §§ 146.1 *et seq.* (Counts VI and XII).